IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

MFA.No. 197 of 1999

(AGAINST THE AWARD DT. 31/08/1998 IN OP MV NO. 1221/92 OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI)

APPELLANT/PETITIONERS:

***1. V. VELAYUDHAN, AGED 48 YRS,**
S/O. V. MANICKAN, EDALIL HOUSE,
VENGARI AMSOM DESOM P.O., VENGARI,
CALICUT- 10. (DIED)

***2. V. MURALI (MINOR) AGED 12 YRS,**
S/O. VELAYUDHAN.

***3. V. ROHINI (MINOR),**
AGED 9 YRS, D/O. VELAYUDHAN.

(MINOR APPLICANTS 2 AND AND 3 ARE REPRESENTED BY NEXT FRIEND GUARDIAN FATHER IST APPELLANT)

****4. C. ARUNACHALAM, AGED 50 YRS,**
S/O. PONNAN, LAKSHMI NIVAS,
MANJERI AMSOM DESOM, MULLAMPARA. (DIED)

****5. PAPPAL AMMAL, AGED 57 YRS,**
W/O. ARUNACHALAM, LAKSHMI NIVAS,
MANJERI AMSOM DESOM, MULLAMPARA.

*****6.* VIJAYALAKSHMI C., D/O. ARUNACHALAM, LAKSHMI NIVAS,**
MANJERI AMSOM DESOM, MULLAMPARA.

****7. RAJALAKSHMI C., D/O. ARUNACHALAM, -DO- -DO-**

****8. SATHEESH KUMAR C., S/O. ARUNACHALAM, -DO- -DO-**

***9. V. AMMU AMMA, W/O. MANIKYAN,**
EDATHIL HOUSE, VENGERI P.O.,
KARAPPARAMBA, KOZHIKODE.

APPELLENTS NO. 2 AND 3 ARE RECORDED AS THE LEGAL REPRESENTATIVES OF THE DECEASED FIRST APPELLANT AND SUPPLEMENTARY APPELLANT NO. 9 IMPLEADED VIDE ORDER DATED 27/09/1999 ON CMP NO. 5324/1999.

5TH RESPONDENT IS RECORDED AS ONE OF THE LEGAL REPRESENTATIVE OF DECEASED 4TH APPELLANT AND SUPPLEMENTARY APPELLANTS 6 TO 8 ARE IMPLEADED VIDE ORDER DATED 22/06/1999 ON CMP NO. 3370/1999.

BY ADV. SRI.O.V.MANIPRASAD
SRI.M.P.PRABHANANDAN

RESPONDENTS/RESPONDENTS:
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1. MANJERIKKATTIL ABDUL MAJEED,
S/O. KUNHIMOYEEN, MANJERIKKATTIL HOUSE,
KUTHUKAL ROAD, MANJERI.
(DRIVER CUM OWNER OF JEEP KLM 6315)

2. UNITED INDIA INSURANCE CO. LTD.,
MANJERI.

#3. NEELIYATHU MAMMI, AGD 35 YRS,
S/O. ALI, NEELIYATHU HOUSE,
PONMUNDAM AMSOM DESOM, P.O., VYLATHOOR,
(DRIVER OF LORRY KRZ 2187) (DELETED)

4. K.P. HAMZA (DIED), S/O. ABDU,
KARINJAPARAMBIL HOUSE, POOKAYIL BAZAR,
TIRUR, (OWNER OF LORRY KRZ 2187)

5. ORIENTAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE, PAZHAVANGADI,
THIRUVANANTHAPURAM, (INSURER OF LORRY
KRZ 2187)

M.F.A NO. 197/1999 D

**#6. K.P. ABDU, KARINJAPARABIL HOUSE,
TIRUR, (LEGAL REPRESENTATIVE OF THE
DECEASED 4TH RESPONDENT) (DELETED)**

#RESPONDENTS NO. 3 AND 6 ARE DELETED FROM THE PARTY ARRAY AT THE RISK OF THE PETITIONERS. VIDE ORDER DATED 07/07/2004 ON IA NO. 1992/2004.

**BY ADVS. SRI.M.A.HAKIM SHAH -- R2
SRI.GEORGE CHERIAN (THIRUVALLA) -- R5**

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 24/05/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A.No. 197 of 1999

Dated this the 24th day of May, 2007

Judgment

Koshy, J.

Headmistress of a school aged 51 died in a motor accident. She was travelling in a jeep bearing Registration No.KLM 6315 from Pookkottumpadam to Manjeri. It collided with a lorry bearing registration No.KRZ 2187. The Motor Accidents Claims Tribunal found that drivers of both vehicles were equally negligent. Dependants of the deceased claimed Rs.3,00,000/- as compensation, but, the tribunal has awarded only Rs.1,71,000/- as total compensation. Even though it is stated in the operative portion that pecuniary loss is Rs.1,44,000/- while calculating the total compensation for pecuniary loss due to loss of dependency only Rs.1,35,000/- was awarded. Quantum of compensation alone is disputed in this appeal.

2. Deceased was a headmistress drawing a salary of Rs.1,718/- from the Government during the relevant period. Her salary will be increased by periodical increments apart from pay revisions. It is

contended by the counsel for appellants that considering all these future prospects, at least Rs.2,500/- should have been taken as the monthly income for the purpose of calculation. We are of the opinion that only Rs.1,800/- need be taken as the monthly income as the monthly salary drawn by the deceased at the time of death was Rs.1,718/- and vagaries of life cannot be predicted. One-third of the amount has to be deducted for finding amount of loss of dependency. Thus, balance will be Rs.1,200/-. Considering the age of the deceased, the tribunal has adopted multiplier of 15. We see no reason to change the same. If that be so, compensation payable for the pecuniary/dependency loss will be Rs.1200 x 15 x 12 = Rs.2,16,000/-. The tribunal also calculated the same amount, but, again deducted another one-third which is unwarranted as already one-third salary was deducted for calculating dependency loss. In the award portion, tribunal has taken only Rs.1,35,000/- for pecuniary loss and loss of dependency. So, the balance payable to the appellants will be Rs.81,000/- on this count. Even though it is contended that the compensation given under other heads are also two inadequate, we are of the opinion that just and reasonable compensation was awarded

under other heads. The additional amount of Rs.81,000/- now awarded shall be deposited by the second and fifth respondents in equal proportion with 9% interest from the date of application till the date of deposit and it should be disbursed in the same manner as directed by the tribunal.

The appeal is allowed partly.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A. NO.197/99

JUDGMENT

Dated:24th May, 2007